

PUBLIC NOTICE

September 1, 2011

Hamilton County Circuit and Superior Courts Proposed Local Court Rule Changes

The Judges of the Hamilton County Circuit and Superior Courts find good cause to deviate from the schedule for amending local court rules pursuant to Trial Rule 81(D), and request Supreme Court approval of the proposed addition and amendments.

The following proposed additions, amendments and/or deletions to the Hamilton County Local Court Rules are posted for public comment:

LR29-AR15-109
LR29-CR00-301
LR29-CR00-305.10
LR29-FL00-403

COURT REPORTERS AND PROCEDURES (Amended)
CRIMINAL RANDOM FILING (Amended)
HAMILTON COUNTY BOND SCHEDULE (Amended)
TITLE IV-D COMMISSIONER/COURT (New)

The above rules are on separate pages and deletions are shown by ~~striking~~ and new text is shown by **bold underlining**.

Comments will be received until October 1, 2011, and should be sent to one of the following addresses:

Administrator of the Courts
Hamilton County Courts
One Hamilton County Square, Suite 313
Noblesville, IN 46060-2232

E-Mail: orval.schierholz@hamiltoncounty.in.gov

Following a review of the public comments, the Hamilton County courts will adopt, modify, or reject the proposed local rule changes by November 1, 2011.

If approved, the effective date for these rules will be January 1, 2012 or sooner.

LR29-AR15-109. COURT REPORTERS AND PROCEDURES

109.10 The Official Court Reporter serving each court has not only the duties assigned by the Court she or he serves but also certain statutory duties. The purpose of this Rule is to establish personnel policies relating to the Court Reporters' special duties.

109.15 Definitions:

- a. ACourt Reporter@ is a person who is specifically designated by a court to perform the official court reporting services for the Court including preparing a transcript of the record.
- b. AEquipment@ means all physical items owned by the Court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes and any other device used for recording and storing, and transcribing electronic data.
- c. AWork space@ means that portion of the Court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
- d. APage@ means the page unit of a transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
- e. ARecording@ means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
- f. ARegular hours@ worked means those hours which the Court is regularly scheduled to work during any given work week. Hamilton County required work hours are 37-1/2 per week.
- g. AGap hours@ worked means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
- h. AOvertime hours@ worked means those hours worked in excess of forty (40) hours per work week.
- I. AWork week@ means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e., Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
- j. ACourtA means the particular court for which the court reporter performs services. Court may also mean a group of courts, i.e., county courts.
- k. ACounty indigent transcript@ means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.
- l. AState indigent transcript@ means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.
- m. APrivate transcript@ means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

109.20 A court reporter shall be permitted to type transcripts of official court proceedings during county-compensated hours. Equipment and supplies shall be used for the recording and/or preparation of such transcripts. If the recording or preparation of such transcripts requires overtime, such court reporter will be either paid overtime or given compensatory time.

109.25 A court reporter shall be paid an annual salary for time spent working under the control, direction, and direct supervision of the court during all regular work hours, gap hours, or overtime hours.

109.30 The amount of the annual salary of each court reporter shall be set by each court subject to the approval of the Hamilton County Council.

109.35 The annual salary paid to the court reporter shall be for a fixed scheduled 37-1/2 regular

working hours per week.

109.40 The court reporter shall, if requested or ordered, prepare any transcript during regular working hours.

109.45 In the event that preparing a transcript could not be completed during regular working hours, a court reporter shall be entitled to additional compensation beyond regular salary under the two options set forth below:

a. Gap hours shall be paid in the amount equal to the hourly rate of the annual salary; and overtime hours shall be paid in the amount of 1-1/2 times the hourly rate of the annual salary; or

b. Compensatory time off from regular work hours shall be given in the amount equal to the number of gap hours worked; and compensatory time off from regular work hours shall be given in the amount of 1-1/2 times the number of overtime hours worked.

109.50 Each court and each court reporter may freely negotiate between themselves as to which of the two options may be utilized and the Court and court reporter shall enter into a written agreement designating the terms of such agreement.

109.55 A court reporter may charge ~~\$3.75~~ **\$4.25** per page for county and state indigent transcripts. A court reporter shall submit directly to the county a claim for preparation of county indigent transcripts.

109.60 A court reporter may, at the request of another official court reporter, agree to prepare court proceedings of another court. Such preparation shall not be done on county-compensated hours, but county equipment and supplies may be used. In addition, a court reporter may do private recording or preparation of depositions, but a court reporter shall not do any recording or preparation of private depositions during county-compensated hours, and county equipment and supplies shall not be used for recording or preparation of such depositions.

109.65 A court reporter may charge a maximum of ~~\$3.75~~ **\$4.25** per page for a transcript prepared for a private party; i.e., either a hearing transcript or deposition transcript.

109.70 The court reporter shall report on an annual basis to the State Court Administrator all transcript fees, whether county indigent, state indigent, or private received by the court reporter.

109.75 Modification of this policy may be made to meet the security, scheduling or other unique needs of a particular case. Any modification shall be by written order of the Court. An individual requesting modification of this policy should provide the Court a factual and/or legal basis for such request and specifically set forth what items are being requested. **(Form AR15-109).**

LR29-CR00-301. CRIMINAL RANDOM FILING

301.10 This Random Filing Rule does not apply to either civil cases or juvenile cases.

301.20 All misdemeanors (except those assigned to Superior Court No. 3 pursuant to Section 301.30 below) shall be randomly filed with 1/3 in Superior Court No. 4, 1/3 in Superior Court No. 5, and 1/3 in Superior Court No. 6 or other method as the judges of said courts shall agree. All class D Felonies (except those assigned to Superior Court No. 3 pursuant to Section 301.30 below) shall be randomly filed with 1/3 in Superior Court No. 4, 1/3 in Superior Court No. 5, and 1/3 in Superior Court No. 6 or other method as the judges of said courts shall agree. Reassignment of these cases shall be achieved by transferring cases originating in Superior Court No. 4 to either Superior Court No. 5 or Superior Court No. 6; transferring cases originating in Superior Court No. 5 to either Superior Court No. 4 or Superior Court No. 6; and, transferring cases originating in Superior Court No. 6 to either Superior Court No. 4 or Superior Court No. 5. In the event a subsequent reassignment is required (and neither Superior Court No. 4, nor Superior Court No. 5, nor Superior Court No. 6 is available) said case assignment shall be achieved by obtaining a new court assignment from all Hamilton County Courts using the Clerk's random assignment procedure.

301.30 Misdemeanor and class D felony battery offenses, strangulation offenses, and invasion of privacy offenses that do not involve operating while intoxicated offenses (IC 9-30-5) shall be filed in Superior Court No. 3. Reassignment of these cases will be achieved by randomly transferring said cases to either Superior Court No. 4, Superior Court No. 5, or Superior Court No. 6, with 1/3 of such transfers going to each of these three courts respectively.

301.40 All Murder (MR Case type), Class A (FA Case Type), Class B (FB Case Type), and Class C (FC Case Type) felonies shall be randomly filed per case type with 25% of each case type filed in Circuit Court, Superior Court No. 1, Superior Court No. 2 and Superior Court No. 3. Reassignment of these cases shall be achieved by obtaining a new court assignment using the Clerk's random assignment procedure of the Courts designated to accept this type of case.

301.50 The Clerk shall use a court-approved procedure which provides a tamper proof method for random assignment consistent with the foregoing paragraphs of this Criminal Rule.

301.60 From time to time, the Courts may provide orders to assist the Clerk in implementing the Criminal Random Filing procedures.

301.70 Pursuant to Indiana Criminal Rule 2.2(c), if a case is dismissed after filing, upon refileing it shall be assigned to the same court where it was originally assigned.

301.80 The Clerk shall file subsequent cases against a defendant with a pending case (where a "pending case" is defined under this rule as a criminal case in which there is either no disposition of the charge(s) via a determination of guilt or dismissal or the defendant has not yet been discharged from the sentence imposed, including probation) as follows:

a. When a defendant has a pending case in Circuit Court, Superior Court No. 1, Superior Court No. 2, or Superior Court No. 3, the Clerk shall file any subsequent felony or misdemeanor offenses in the same court as that of the pending case. This paragraph does not apply to D Felony or misdemeanor OWI offenses.

b. When a defendant has a pending case in Superior Court No. 4, or Superior Court No. 5, or Superior Court No. 6, the Clerk shall file any subsequent misdemeanor or class D Felony offenses (except those assigned to Superior Court No. 3 pursuant to Section 301.30) in the same court as that of the pending case.

c. When a defendant's only pending cases are in Superior Court No. 4, or Superior Court No. 5, or Superior Court No. 6, the Clerk shall file any subsequent offenses listed

under Sections 301.30 or 301.40 as set forth in Sections 301.30 and 301.40.

d. It shall be the duty of the Prosecuting Attorney or Deputy Prosecuting Attorney to file written notice with the Clerk that a defendant has a pending case that requires the Clerk to follow the filing requirements of this rule.

e. A Court, at the request of both parties, may transfer a case to another Court where the defendant has a pending case, as defined by this rule, provided that the receiving Court agrees to accept the transfer.

APPENDIX A
TO LR29-CR00-305.10

HAMILTON COUNTY BOND SCHEDULE

SCOPE: This bond schedule applies to all cases to be filed in the Circuit and Superior Courts of this County and in the City of Carmel and City of Noblesville Courts. THE SHERIFF OF HAMILTON COUNTY IS HEREBY ORDERED TO FOLLOW THIS BOND SCHEDULE FOR SETTING BONDS FOR ALL PERSONS ARRESTED WITHOUT WARRANTS FOR CRIMINAL OFFENSES TO BE FILED IN THE ABOVE COURTS:

FELONIES:	MURDER	NO BOND
	HABITUAL OFFENDER	\$50,000
	CLASS A	\$50,000
	CLASS B	\$25,000
	CLASS C	\$10,000
	CLASS D.....	\$ 5,000
MISDEMEANORS:	CLASS A MISDEMEANOR	\$ 2,500
	CLASS B MISDEMEANOR.....	\$ 1,000
	CLASS C MISDEMEANOR.....	\$ 500

EXCEPTIONS: The following are exceptions to the above listed schedule:

Operating While Intoxicated, Second Offense (Class D felony)	\$ 7,500
Operating While Intoxicated Resulting in Serious Bodily Injury (Class D felony)	\$ 7,500
Dealing Marijuana Less Than 30 Grams (Class A misdemeanor)	\$ 3,750
False Reporting or Informing (Class A or B misdemeanor)	\$ 2,500

Illegal Consumption/Possession of Alcohol (Class C misdemeanor).....release on OR after

alcohol free

Leaving the Scene of a Property Damage Accident (Class B or C misdemeanor)	\$ 2,500
Leaving the Scene of a Personal Injury Accident (Class A misdemeanor)	\$ 5,000
Operating While Intoxicated (Class C misdemeanor)	\$ 2,500
Operating a Vehicle With at Least .08 (Class C misdemeanor)	\$ 2,500
Operating a Motorboat While Intoxicated (Class C misdemeanor).....	\$ 2,500
Operating a Motorboat With at Least .08 (Class C misdemeanor).....	\$ 2,500

Public Intoxication (Class B misdemeanor)..... release on OR after alcohol free

Refusal to Identify Self (Class C misdemeanor).....	\$ 1,500
Possession of Drug Paraphernalia (Class A misdemeanor)	\$ 1,000
Driving While Suspended (Class A misdemeanor)	\$ 1,000

BOND AMOUNTS ARE CUMULATIVE - EXCEPTIONS: If a person has been arrested for multiple charges, the bond amount shall be the total amount required for all charges, except for the following situations:

1. If a person has been arrested for multiple alcohol charges (operating while intoxicated,

public intoxication, illegal consumption/transportation), only the highest class bond for one charge shall be imposed for all of the alcohol charges; and

2. If a person has been arrested for multiple misdemeanor charges, the total cumulative bond for all of the misdemeanors shall not exceed \$5,000.

BOND NOT AVAILABLE: This bond schedule shall not be used for any person arrested on a charge of Invasion of Privacy, Battery, or Stalking until the passage of 24 hours from book in at the jail. Nor shall this bond schedule be applicable to cases involving a person who has been arrested for a crime when it can be reasonably determined that the person was on probation, parole, bond or release on the person=s own recognizance for another offense and, in such case, the person shall be detained in custody until a Court establishes the bond.

CONDITIONS OF BOND: All persons posting a Bail Bond are subject to the following conditions: (a) they **shall appear** in Court at all times required by the Court; (b) they **shall not leave the State of Indiana** without the **prior written** consent of the Court; (c) they **shall not commit nor be arrested** for another criminal offense; (d) they shall keep their attorney and the Court advised in writing of any change of address within 24 hours of such change; and, (e) they shall comply with any other condition ordered by the Court. Pursuant to I.C. 35-33-8-3.2(a)(4) a person=s release may also be conditioned upon refraining from any direct or indirect contact with the alleged victim of an offense or any other individual as ordered by the Court. **Violation of any condition may result in the revocation of bond and the issuance of a re-arrest warrant.**

SUPERSEDES: This Bail Bond Schedule supersedes all previous Bail Bond Schedules ordered by the Circuit and Superior Courts of this County and the Carmel and Noblesville City Courts.

SO ORDERED this 1st day of November, 2011.

Original signed by the Honorables Felix , Nation, Pfleging, Hughes, Campbell, Sturtevant, Bardach, Poindexter, and Caldwell

RULE LR29-FL00-403. TITLE IV-D COMMISSIONER/COURT.

These local rules are adopted by the Hamilton County Circuit and Superior Courts to govern the practice and procedures in the Title IV-D Commissioner/Court, funded by the use of IV-D Incentive Funds.

403.10 ORGANIZATION OF TITLE IV-D CHILD SUPPORT COMMISSIONER/COURT. Pursuant to I.C. 31-25-4-15, the Judges of the Circuit and Superior Courts hereby establish a Title IV-D Commissioner/Court to establish and enforce paternity and child support orders under federal and state law.

403.10.1 ASSIGNMENT OF COMMISSIONER TO IV-D COURT. The Judges of the Circuit and Superior Courts shall jointly appoint a commissioner to the IV-D Court. A commissioner so appointed shall be designated as a IV-D Commissioner.

403.10.2 RESPONSIBILITIES OF IV-D COMMISSIONER. A IV-D Commissioner jointly appointed by the Judges and assigned to the IV-D Court pursuant to 403.10.1 has the authority to preside over, make findings of fact and recommendations for the approval of the Judges of the Circuit and Superior Courts in actions arising under Title IV-D of the Social Security Act. In addition, the IV-D Commissioner has the authority to provide such assistance as may be required in making these findings of fact and recommendations.

403.01.3 TEMPORARY ABSENCE OF IV-D COMMISSIONER. During the temporary absence of the duly appointed IV-D Commissioner, any sitting judicial officer of the Hamilton County Circuit and Superior Courts may hear and make recommendations upon Title IV-D matters.

403.10.4 SUPERVISION OF THE IV-D COMMISSIONER/COURT. The Title IV-D Commissioner/Court shall be operated under the auspices and supervision of the Judges of the Hamilton County Circuit and Superior Courts.

403.20 CHILD SUPPORT ISSUES ARISING OUT OF LEGAL SEPARATION DECREE OR DISSOLUTION OF MARRIAGE PROVISIONAL ORDERS

403.20.1 PENDING CHILD SUPPORT ORDERS ARISING FROM LEGAL SEPARATION OR PROVISIONAL ORDERS. All IV-D child support issues arising out of a Legal Separation Decree or out of a provisional order in a Dissolution of Marriage proceeding will NOT be assigned to the IV-D Commissioner/Court.

403.20.2 ARREARAGES FROM CHILD SUPPORT ORDERS ARISING FROM LEGAL SEPARATION OR PROVISIONAL ORDERS. Once a Legal Separation Decree expires by order or operation of law or once a Dissolution of Marriage Decree is granted, arrearage issues arising out of the provisional order or the Legal Separation Decree may then be assigned to the IV-D Commissioner/Court by written ORDER OF ASSIGNMENT issued by the Judge of the Circuit or Superior Court upon a written finding that there is a IV-D support issue to be resolved.

403.30 IV-D CHILD SUPPORT ISSUES ARISING OUT OF DISSOLUTION DECREES OR POST-DISSOLUTION ORDERS. All IV-D child support issues arising out of a Dissolution Decree or a Post-Dissolution Order may be assigned to the IV-D Commissioner/Court by written ORDER OF ASSIGNMENT issued by the Judge of the Circuit or Superior Court upon a written finding that there is a IV-D support issue to be resolved or upon a finding that the only remaining matters involved in the case are properly within the jurisdiction of the IV-D judicial officer.

403.40 IV-D CHILD SUPPORT ISSUES ARISING OUT OF PATERNITY ACTIONS. All IV-D child support issues arising out of a Paternity Action or post- paternity proceedings may be

assigned to the IV-D Commissioner/Court by written ORDER OF ASSIGNMENT issued by the Judge of the Circuit or Superior Court.

403.50 PROCEDURE FOR ASSIGNMENT OF IV-D MATTERS TO IV-D COMMISSIONER/COURT.

Once a Judge of the Circuit or Superior Court has assigned a case involving IV-D issues to the IV-D Commissioner/Court for the resolution of IV-D issues, the following procedure will control:

(1) Cases may be considered for assignment at the oral or written request of any party or sua sponte by the assigning Judge.

(2) The Judge may issue a written ORDER OF ASSIGNMENT upon a finding that a IV-D support issue needs to be resolved or upon a finding that the only remaining matters involved in the case are properly within the jurisdiction of the IV-D Commissioner/Court. The ORDER OF ASSIGNMENT will be entered onto the original chronological case summary (CCS) or docket sheet.

(3) A copy of that ORDER OF ASSIGNMENT, a copy of the CCS, and copies of any relevant pleadings including but not limited to the initial pleadings on any pending IV-D matters and all orders entered regarding any previous IV-D matter shall be compiled by the clerk of the court of origin upon request of the Child Support Division of the Prosecutor's Office.

(4) The ORDER OF ASSIGNMENT will be served on all parties by the Child Support Division of the Prosecutor's Office. If a pending issue requires an immediate hearing, the Child Support Division shall also be responsible for coordinating the hearing date and time and notifying all parties.

(5) All non-IV-D matters that arise following an assignment to the IV-D Commissioner/Court shall be filed with the originating Circuit or Superior Court. Assigned IV-D issues may be recalled by the assigning judge at any time and the IV-D Commissioner/Court shall send back to the assigning judge any assigned issues that require the consideration of non-IV-D matters.

(6) All findings and recommendations of the IV-D Commissioner/Court shall become orders upon approval and adoption by the originating Judge.

(7) A transfer, assignment, or recall of cases shall be done by separate order of the sending or recalling judicial officer.

(8) Procedure for Objection to Assignment: Assignment to the Title IV-D Commissioner/Court is within the sole discretion of the regularly presiding judge to whom the case has been originally assigned. A change of venue from the regularly presiding judge may be made under applicable Indiana Trial Rules or statutes. An objection to assignment to the Title IV-D Commissioner/Court shall be made to the regularly presiding judge and is within his or her discretion to grant or deny.